/38 cont./

425 father, of his own accord, puts himself on equal terms with his
178 sons with regard to the ownership of the ancestal fields. This re-
593 search in the archives has not been undertaken. But if the present state of affairs cannot contribute sufficient detail on that, because the institution is very much obliterated, the acts of this kind were numerous in the past and seem to reveal a very strong tendency of the mores.

Such equalization between father and son runs counter to everything that one could imagine about a patriarchal culture.
584 But it is to this impression that the great individual initiative that such a society leaves to the young people in the choice of spouse would already lead. Betrothals are free. They are perhaps some-
[178] times made in an atmosphere -- grown very pale today however -- of age groups and communal festivity. They never originate with the parents. The latter are in general requested by the young man or the girl to lend to the agreement their intervention, necessary for a juridical consecration and an integral part of the ceremonial context.

592 If the unconstraint of the adolescent with regard to his
613 father is such, if the autonomy of the couple stands out so vividly in the aggregate of the tigemmi, what will the relations of these conjugal families be with /39/ the larger agnatic ensemble of the ikhs, defined by a nickname or an ancestor's name? The impression is that these relations are conceived -- today in any case -- only from the angle of public law. No law, no morality, and not even good form compels the autonomous citizen, the rrami,
[561] to take the advice of his collaterals. On this point this society is even strangely disrespectful of /Fig. 4 appears here/ /40/ old
[426] age, veneration of which we would attribute to it. For the collateral, in nature, is often the usurper or the creditor, intent upon regrouping the gentilitial patrimony "on his head."

551 Now the individual hardly has a name, if one may say this. The anthroponyms are incontestably poorer here, less varied, than in Arab country. More monotonous, and also more fleeting to hear. Generally, they consist only of brief syllables, the assemblage of which is rarely original. There is no village so modest

[TEXT CONTINUED ON PAGE 57]

/339 cont./

613 671 but the displays or the subterfuges that the old Chleuh /Shluh/ procedure has been prodigal with to maintain against it something of the old solidarities are in sum only a trifle in comparison with the primacy that it holds for the mores. One will see this notably in the matter of the division of acquests and of matrimonial customs. In both cases, the "patriarchal" and statutory character gives way to an individual and contractual character more pronounced than any analogous one that can be observed in the alleged Islamic model. In this matter the Chleuh /Shluh/ system goes beyond the fiqh. The influence of the gentilitial organizations, although combated by orthodoxy, its notariate and its conception of personal rights, could resist them, but not prevail over a powerful local tradition, that of egalitarian computation between conjoints, parents and children. These three influences have nevertheless interfered, and all three are to be found, although to unequal degrees, in the different sectors of the familial institution.

/340/ Morphology of Marriage in Seksawa

584 [796] Each year, at the feast of the Mūlūd, young men and young women from the surroundings stream to the holy place of Z'init'. The attraction is exerted as far as in Mentagā to the S., up to the ᶜAbda to the N. It is the market for wives. Couples, who only rarely ask for the parents' approval, form according to their sympathies. In certain cases, however, the fiancée "presents" her fiancé to her family, which goes to accompany him home. Most often, it is necessary to say, the unions have nothing at all that [796] could satisfy the moralist. "But," as an amghar of the Seksawa [798] told me, "one must believe that the saint delights in it, for her baraka guarantees the prosperity of these marriages and makes up for the sometimes considerable delays of the usual betrothals." [582] This market for girls, especially dear to the plains Arab wooers who come here to choose a montagnard woman to their liking, has lasting fruits. The single village of Z'init' has at the present time three of its women who have married sanctimoniously into the single H'mer tribe.

/340 cont./

581
114 /footnote 2 continued/ on courtship (t. II, p. 205 sq.), marriage by flight (t. IV, pp. 49 sq.), marriage by exchanges of fiancées, which is the ante-Islamic chighâr (t. IV, pp. 90 sq.). E. Doutté, Marrakech /Marrakesh/, 1905, pp. 331 sq., gives a remarkable description of marriage in Reh'âmna. He cites, same page, n. 2, an exhaustive bibliography for his time and for Morocco.

which one has the good fortune to have available in the second of these two domains, is of little help here, in spite of the /341/ suggestive prospects that it opens here and there. It in fact neglects morphological analysis and in the end contributes only a collection of traits more valuable for a general comparativism than for an examination of a localized institution in its relations
581
121 with the milieu. The account below will attempt to combine, according to the dosage that reality itself offers, the point of view of the local jurist, who already codifies and elaborates, with that of the usagers who know law only by what they see and experience of it. Tendency toward normalization and emotive participation, the one individualist and rational, the other of an entirely communitarian spirit, but cropping out in the law, will equally have room in our curiosity. To the one as well as to the other, one will try to give a just part in this overly schematic account, which is resigned to neglecting the varieties between groups.

584 /The rest of this section is in small type in the original source./ Seksawa marriage includes several phases, the succession of which is punctuated by ceremonies.

a) the asghurt, "prenuptial stage," is a period of frequentation preliminary to cohabitation. It is of indefinite duration.

Inaugurating it are:

1) the id'ilâb, "request" solemnized by the sacrifice of an animal and
2) the agreement of the fiancée and the two families, sanctioned by a meal in common;

/341 cont./

584 3) the feast called asghurt: it gives to the ensemble its name, which etymologically evokes a "ritual cry."

Beyond the presents handed over on this occasion, arising from an economy of the gift and of the feasting, the young man owes to the girl during this period clothing and ornaments, according to the customary modalities. He contributes to her support at the domicile of her parents. In exchange, she owes him a certain intimacy in general not total, and joins him in various practices bringing into play age classes and rites of passage: young people's feasts and evenings, applications of henna. The unilateral rupture of this state by the young woman entails on her part the obligation to give back the gifts and expenses incurred.

585 b) The "nuptials," tameghra, include a ritual part, a statutory part, and a conventional part.

Ritual part:

1) The tarzift: the delivery of propitiatory gifts by the young man to his parents-in-law, giving rise to a "procession," and sometimes to simulated pillage;

2) the processional conveyance of the young woman to the marital house, this is the ɛid n-tslit;

3) the exposition of the dotal contribution of the bride, the ɛid uruku;

4) the utterance of the fatih'a, Koranic formula accompanied by wishes of good augury;

/342/ 5) The consummation: this is the ɛid ukechchum, sanctioned, if it is a matter of a virgin, by the yo-ho /Fr. youyou/ of the matron on duty, taghorit, and a new gift, lh'aqq n-ɕɕbɛh'.

Statutory part:

585 675 586 1) Conclusion of the amerwas: promise by the bridegroom to the bride to have to pay her, in case of dissolution of the marriage, a sum uniformly fixed by the custom of each tribe, and varying from one to the other: in Seksawa, 6.50 for a virgin, 3.25 for a nonvirgin;

/342 cont./

586 562 to the evaluation of the magistrates. But in Seksawa she can obtain it on simple incompatability, which constitutes an exorbitant originality in relation to the fiqh.

As an orf judge said, only the woman may be the judge of the d'd'arar ddakhili, that is, "hidden objections." An original vein of protective tenderness with regard to daughters and sisters circulates here in /343/ the customs. It is so notable that, the regularization of this practice having been brought about by tribal deliberation in 1949, the jemâa unanimously, with one exception, manifested its formal agreement. The isolated one was from the Bas /Lower/ Seksawa. A man from Arab confines.

Comparison with Orthodox Marriage

585 171 While there can be no question here of a historical comparison between the Chleuh /Shluh/ institution and the Mussulman institution, as it is presented in theory on the one hand, in Moroccan practice on the other, one immediately notices certain differences.

First of all, a difference of profile in time. The conclusion of the orthodox nikâh' is sanctioned by the payment of at least a part of the ṣadâq /ṣadāq/. This is incontestably its point of de-

584 171 parture. Nothing is less true of Chleuh /Shluh/ marriage, where the nuptials are preceded by what I have called a prenuptial stage, which is not always today, and in any case seems not to have been formerly, exclusive of the sexual act. But let us not dwell on this question; it could be suitably treated only in the perspectives of the Berbère /Berber/ comparativism that a recently opened controversy over "Kabyle betrothal" (1)

584 171 114 1. I am thinking of the malicious criticisms by G.-H. Bousquet, Justice française et coutumes kabiles /French justice and Kabyle customs/, 1950, p. 83. If, however, on a juridical plane, they appear decisive, I wonder if the question would not merit being thoroughly examined on the plane of general ethnology. A. Magdelain,

1: Berque--484 Z-5 (ca.1950) 1955 MW11 Shluh MW11

/343 cont./

584
171
114

/footnote 1 continued/ Essai sur les origines de la sponsio /Essay on the origins of the sponsion/, 1943, p. 104, finds in very ancient Roman law an opposition between the "betrothal," more conservative form, more imbued with magic rites and with the notion of patria potestas, and "marriage," individualized and consensual form. In Rome, however, the juridical tie of the betrothal fell into decadence early. Similarly in Mussulman law the institution's point of departure in time, in the juridical sense of the term, is the fātih'a. Nevertheless in Chleuh /Shluh/ law the frequency of litigations that we would call "breach of promise of marriage" is significant, and at the very least covers the notion of a juridical state already established anterior to the pronouncement of the fātih'a. This is what I call the prenuptial stage, by allusion to practices of this order fallen to the level of simple folklore in certain European milieus, for example. Cf. Van Gennep, Manuel de folklore français /Manual of French folklore/, 1943, t. I, pp. 226 sq., 249, 259. In the Berbère /Berber/ domain itself, it would not be adventurous to compare this phase of "frequentation," where the daughter remains at the home of her parents, with such a trait of Touareg /Tuareg/ marriage: "custom requires that the newly married live near the parents of the woman for a year," M. Benhazera, Six mois chez les Touaregs du Ahaggar /Six months with the Tuareg of the Ahaggar/, 1908, p. 18. In Morocco itself, the Moyen /Middle/ Atlas knows different practices dependent on a conjugal life first paired with work at the home of the parents, according to the Biblical theme of Jacob at the house of Laban. This is the custom of the amhares. Something analogous among the ait ^{C}At't'a of the Sahara,

/343 cont./

584 171 114

/footnote 1 continued/ according to de Ligniville. G. Marcy, Le droit coutumier Zemmour /The Zemmour customary law/, 1949, too quickly ranks under the name of tiddukla, "compagnonnage" /Fr. compagnonnage, time of service as journeyman after apprencticeship/, some traits of this sort (p. 7). Same reproach to be made concerning his discussion of the theory of H. Basset, drawn from the uniformity of the alig in a. Sadden, a. Warain, a. Seghruchen, B. Mgild, Zayân, etc. (pp. 8 sq. and 9, n. 4).

584 171 renders rather inconclusive in the case at hand.

What is undeniable, on the contrary, is that the Shluh 581 /Shluh/ marriage /344/ is a society of egalitarian production (1),

1. J. Berque, "Les Ajwiba d'al-ᶜAbbâsî /The Ajwiba of al-ᶜAbbâsî/," R. al., 1950, 381 sq., and notes. Nothing more instructive than the difficulty of the orthodox jurist in order to justify the aberrant solutions of the milieu.

where each rightful claimant, women included, contributes his capital and his work. The capital of the woman is the jihaz, and her share of acquests, the tizzla. Nothing similar in Arab countries. 581 171 At Fès /Fez/, for example, the mores indeed force a bourgeois who is marrying off his daughter to give her a "marriage settlement," called chuwâr or tajhîz, of an amount equal to double the part of the çadâq paid immediately. But this is a sumptuary liberality which turns round as a threat of forfeiture in case of repudiation. Assuredly not, as in the Sous, a society that [181] invests itself. Ostentatious economics and tension between great families, such is the climate of Fès; modest and meticulous community of work, such is that of the Sous. The meaning of the practice differs completely from one case to the other, but from the one to the other, it is true, no solution of continuity, and sometimes use of homonyms to designate quite dissimilar forms.

779
792
175
585
675

/346/ This took place in the middle of the seventeenth century. It is a matter of a pious personage, a holy man and converter. His family is from the Drâ, from which the Saâdians had surged forth in the preceding century in an intense religious and martial fermentation. Let us not take this evidence for anything other than what it is: an isolated trait in the present state of the examinations. But, as such, it does not cease to be disturbing, as much by what it reveals of the practices of the period as by its orthodoxy, still of a bizarre taste.

175
584

But do we not find the trace of former organizations in the Z'init' fair for wives? According to some evidence from the fourteenth century, the saint camped surrounded by two separate groups: the women and the men. It is not impossible that this was an indication of a classificatory rite. Even now the promise exchanged by the fiancés during the exaltation of the feast and the sacrifice near the tomb of Lalla Aziza creates an irremissible obligation. A man from the Gedmiwa who had ventured to escape from it was found a few years ago hung in his room. Trace of former collective functions? The written sources impose a salutary lesson of prudence over this point in the hypothesis.

584
796
782

585
675
175

/The following three paragraphs are in small print in the original source./ An act of 916 Heg.: 1510, and one which offers some interest by reproducing this hapax that seems to have been, since Ibn Khaldûn, the name of the Genfisa, is a marriage contract, drawn up according to the habitual pomp of the style of the city. It anticipates a çadâq of 200 dinars, an unheard-of sum for the period. To which are added clothes, jewels, slave. The total is taken care of by the father of the husband, along with the production of real guarantees. A naqd is paid. There are stipulated as the responsibility of the husband, a curious thing in testimony emanating from such an ancient and supposedly such a rough milieu, "pleasantness in relations, the instruction of the woman in her religion, and in attention to the good." This text, by the style, the content, and, one might say, the sentiment, is discordant in these remote cantons.

Another act, more recent, and coming from the great family of the upper valley, this haunt of authenticity that the a. D'alh'a

/191 cont./

616 514 *634 628 535 [533] is handed down from father to son. The "A'lt Teskawin" never dance while mingling with the other warriors of the tribe, but they stay around their "reis," who animates them with songs in which he celebrates the military records of his leff (1).

1. The opposite of the dance of the "Teskawin," the "ahwach" and the "assega," are pacific dances that above all have the aim of permitting men, women, and girls to gather together and exchange, through transparent allusions, epigrams in which love takes first place.

[184] [178] The tradition of the "Teskawin" is still preserved among the populations of the high valleys, where independence has enabled people to respect up to these last years the institutions of former times. The Aghbar, the Seksawa, the Ida ou Mhamoud, the isolated "taqbilt" of the high mountains of the Gedmiwa keep it as a symbol and are attached to it with the feeling that it expresses their fidelity to the leff alliances.

616 574 *584 571 582 The "Tinoubga" become the origin of many private associations, of alliances of families, and of marriages. Indeed, each one looks for a wife, preferably in his own leff, although it is not without precedent to see families of two opposing parties unite; in that case, it can happen that a man might be led to taking up arms against his son-in-law or his grandchildren, for the leff outweighs private alliances.

616 *634 311 241 233 Among the cantons of the same leff -- those of the high mountains and those of the Dir -- are also established economic relations of great importance. In the former are found rich /192/ summer pastures, harvests of walnuts, wool in abundance, but barley and maize are lacking, for land is scarce in the encased valleys. On the other hand, the cantons of the Dir have at their feet enormous areas that can be cultivated in "bour" as well as irrigated fields, but the flocks cannot exist in the plain in the